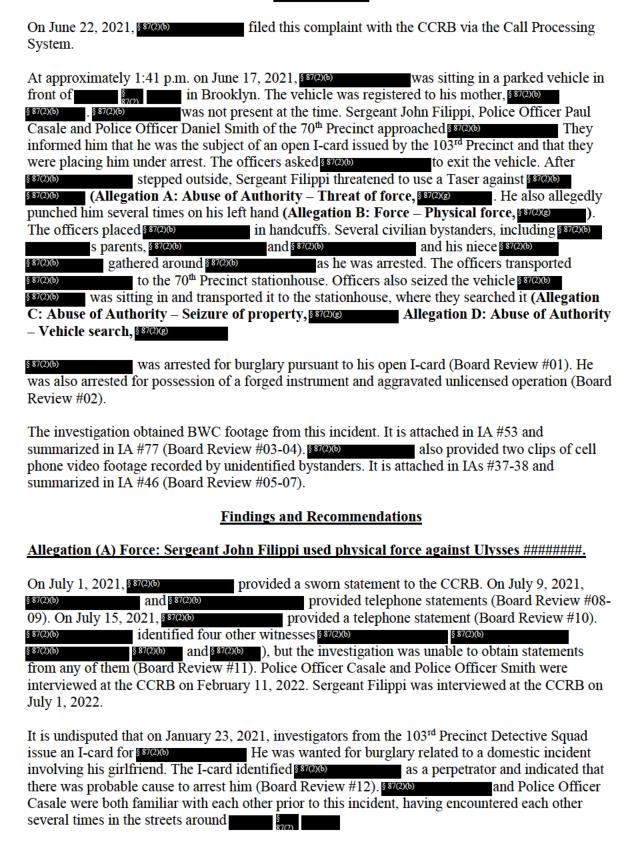
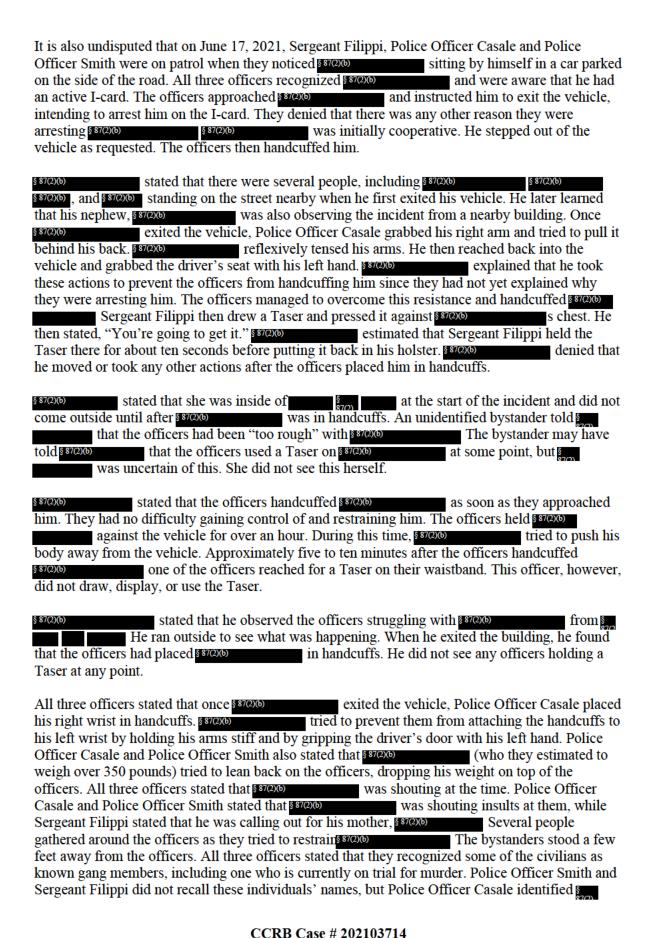
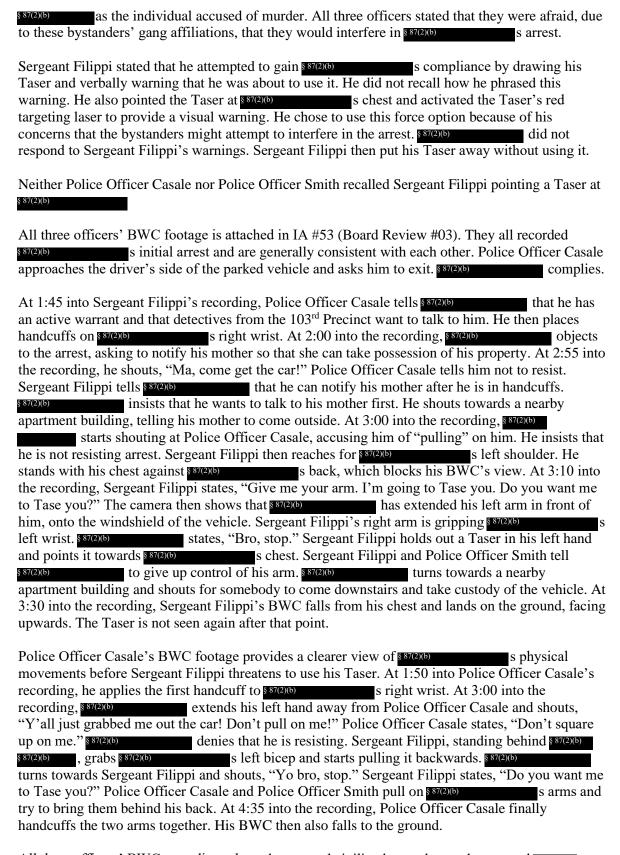
CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	\square	Force		Discourt.	U.S.
Owen Godshall		Squad #15	202103714	Ø	Abuse		O.L.	☐ Injury
Incident Date(s)		Location of Incident:	•	P	recinct:	18	Mo. SOL	EO SOL
Thursday, 06/17/2021 1:41 PM	stationhouse 70			70	12	2/17/2022	12/17/2022	
Date/Time CV Reported		CV Reported At:	How CV Reported:		Date/Time	Rece	eived at CCI	RB
Tue, 06/22/2021 8:11 AM		CCRB	Call Processing System		Tue, 06/22	/2021	1 8:11 AM	
Complainant/Victim	Type	Home Addre	ess					
Witness(es) Home Address								
Subject Officer(s)	Shield	TaxID	Command					
1. SGT John Filippi	02858	948966	070 PCT					
Witness Officer(s)	Shield N	o Tax No	Cmd Name					
1. POM Paul Casale	16369	954610	070 PCT					
2. PO Daniel Smith	11827	955504	070 PCT					
Officer(s)	Allegatio	on			Inve	stiga	tor Recon	nmendation
A.SGT John Filippi	Abuse: A Filippi th	at § 87(2)(b) in reatened § 87(2)(b)	Brooklyn, Sergeant with the use of the					
B.SGT John Filippi	Force: A Filippi us	t § 87(2)(b) in 1 sed physical force again	Brooklyn, Sergeant J st ^{§ 87(2)(b)}	ohn				
C.SGT John Filippi	Abuse: A Filippi se	at § 87(2)(b) in eized § 87(2)(b)	Brooklyn, Sergeant s property.	John				
D.SGT John Filippi		at the 70th Precinct static earched the vehicle in want.		_	vas			

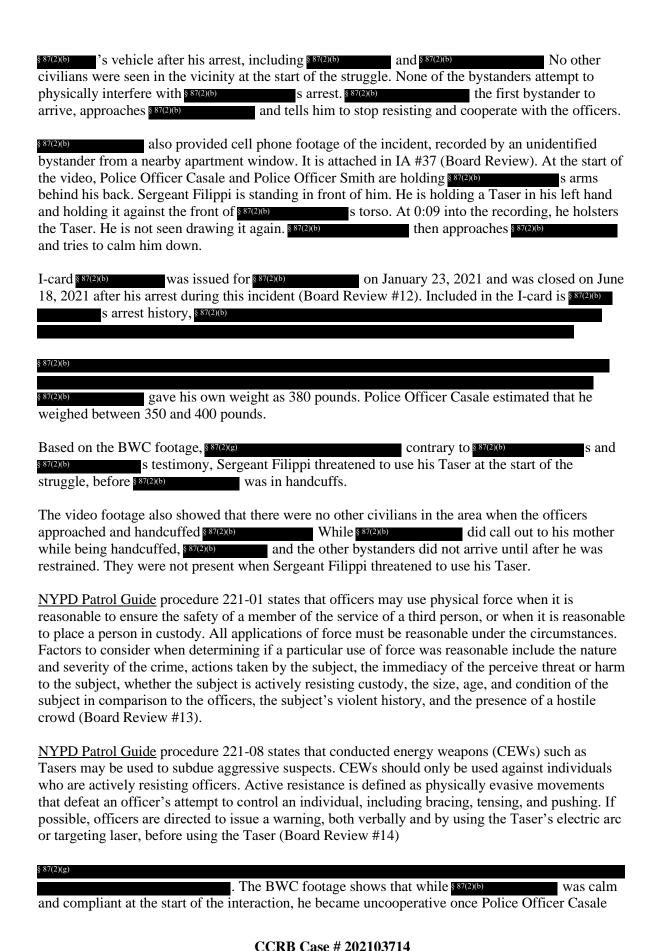
Case Summary

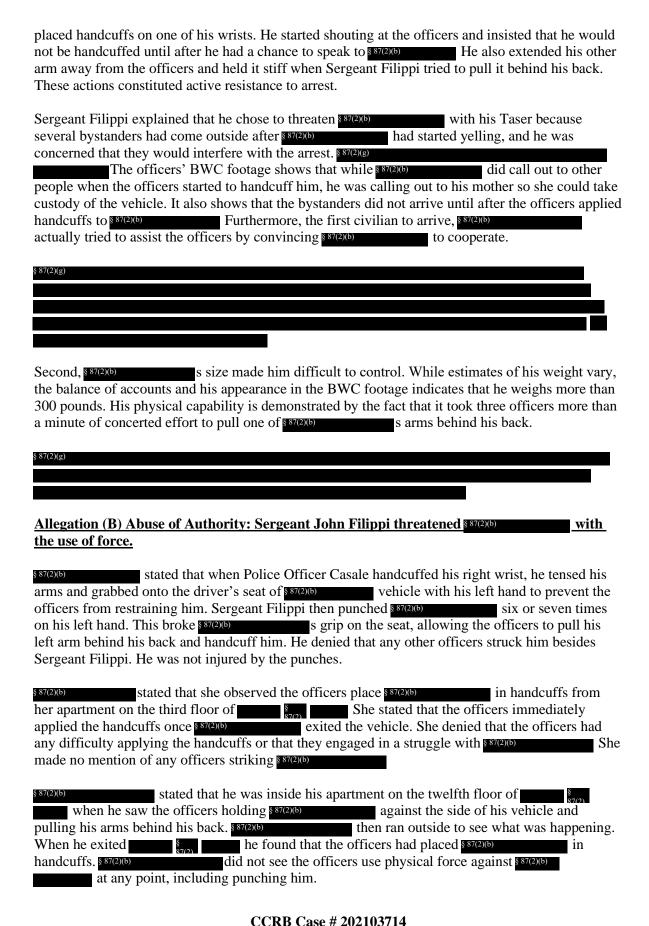


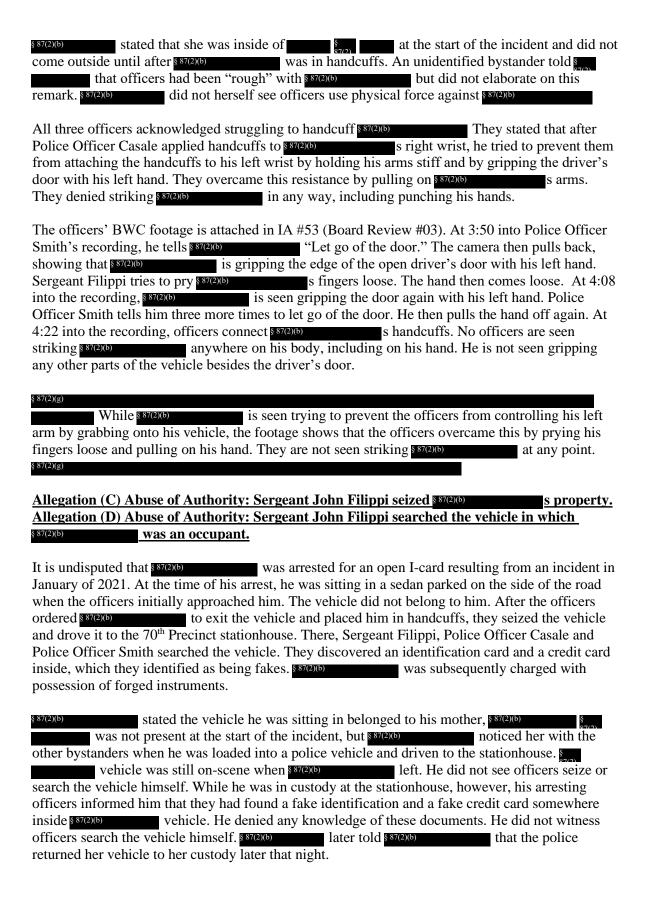


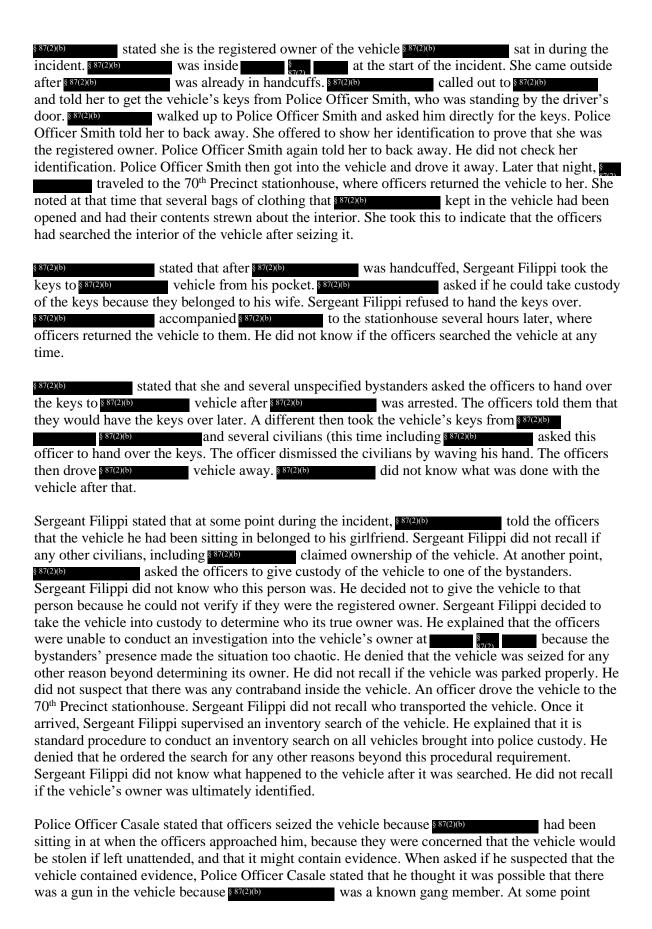


All three officers' BWC recordings show that several civilian bystanders gather around \$87(2)(6)









during the arrest, solution did state that the vehicle was registered to somebody else. Police Officer Casale did not know who the actual owner was. He did not recall if there was any discussion with the civilians about giving custody of the vehicle to one of them but stated that the officers would not have considered this option because it is standard procedure to seize vehicles when their occupants are arrested. Police Officer Casale did not recall who transported the vehicle to the stationhouse. Once it was there, he and his partners searched the vehicle. He explained that the search was done because it is standard procedure to search all vehicles coming into police custody.

Police Officer Smith stated that he did not recall if any of the bystanders made any statements to the officers about the ownership of the vehicle. He did not recall if any of them asked to take custody of the vehicle. Police Officer Smith stated that the vehicle was seized and searched because it is standard procedure to do so when a vehicle is involved in an arrest. Police Officer Smith had no suspicion that the vehicle contained contraband. Police Officer Smith believed that the vehicle was eventually released to its registered owner. He did not recall who the owner was but recalled that she was female.

Several property vouchers were prepared for this incident. Invoice \$\frac{87(2)(b)}{2}\$ records that the vehicle \$\frac{87(2)(b)}{2}\$ was riding in \$\frac{87(2)(b)}{2}\$ who was identified as the registered owner. Invoice \$\frac{87(2)(b)}{2}\$ records that a fake credit card and fake driver's license were vouchered as arrest evidence. A third voucher, invoice \$\frac{87(2)(b)}{2}\$, including his phone, keys, and clothing items, being vouchered for safekeeping (Board Review #15).

The officers' BWC footage is attached in IA #53 (Board Review #03). As noted earlier, before the officers handcuffed \$87(2)(b) he called out for his mother, stating that he wanted her to take custody of his personal belongings and the vehicle he had been sitting in. The footage also shows that both Sergeant Filippi's and Police Officer Casale's BWCs fell from their chests while they were handcuffing \$87(2)(b) The officers pick the BWCs back off the ground but appear to accidentally switch units with each other. As a result, Sergeant Filippi wears Police Officer Casale's BWC after \$87(2)(b) is handcuffed and vice-versa. Later in the incident, right before the officers depart from the arrest location, Sergeant Filippi and Police Officer Casale realize that they are wearing each other's BWC and switch back to their original units.

At 7:00 into the recording on Police Officer Casale's BWC footage, an unidentified female approaches the officers and asks, "Can I get his phone and his keys, please?" Sergeant Filippi states, "No." Police Officer Casale tells her to step back. At 12:30 into the recording, several away from the vehicle he had been sitting in earlier, towards a officers escort § 87(2)(b) marked SUV. Sergeant Filippi, wearing Police Officer Casale's, BWC, stays by the original vehicle. A voice off-screen asks, "Get the key for the car. Give me have the keys for this car." An unidentified male then states, "Give my sister his car keys." Sergeant Filippi states, "He can get it back at the precinct." At 13:00 into the recording, another unidentified male points at somebody off-screen and states, "This the owner. This her car." Sergeant Filippi tells her, "You can get it at the precinct." Another voice then states, "He don't give y'all consent to search the car." At 13:25 into the recording, \$87(2)(b) approaches the vehicle. She states, "This is my son's... what's going on?" In the background, another voice is heard shouting, "This is her car." At 15:50 into the approaches the officers and asks, "You have the car keys, sir? May recording, § 87(2)(b) I have the car keys for my son's car?" Sergeant Filippi asks, "Whose car is it? Where..." He does not receive a response. Sergeant Filippi then turns towards the sidewalk. It shows that there is a fenced-in parking lot. There is a closed gate on the fence, with a sign posted that reads, "No

parking, 24 hour active driveway, vehicles will be towed at owner's expense." At 17:00 into the recording, Sergeant Filippi and Police Officer Casale realize that they are wearing each other's BWCs and switch units. When Police Officer Casale re-affixes the camera, he faces back towards the sidewalk. It shows that the vehicle is parked in front of the curb cut at the parking lot's entrance.

Based on the BWC footage, \$87(2)(8) \$87(2)(6) told the officers before he was handcuffed that he wanted \$87(2)(6) to take custody of the vehicle. He did not explicitly identify her as the vehicle's owner. After \$87(2)(6) was handcuffed, several civilians, including \$87(2)(6) told the officers that \$87(2)(6) was the vehicle's owner and asked for the vehicle to be given over to her custody.

Officers may impound a vehicle when they have a reasonable basis to believe that it was used in the commission of a crime. Officers may also impound a vehicle to further public safety or to fulfill a community caretaking function, such as moving an illegally parked vehicle. An impoundment will be considered unlawful if these factors are not met. People v. Italia, 138 A.D.2d 743 (App. Term, 2nd Dept., 1998). People v. Rivera, 192 A.D.3d 920 (App. Term, 2nd Dept., 2021) (Board Review #16-17).

In <u>People v. Tardi</u>, 28 N.Y.3d 1077 (2016), an officer was permitted to impound a vehicle in a parking lot after arresting its owner because it would be in danger of being vandalized if left unattended. The driver was alone at the time. The officers were not required to first inquire as to whether the driver could arrange for removal of a vehicle or to contact the vehicle's registered owner before impounding the vehicle (Board Review #18).

§ 87(2)(g)
The officers provided conflicting accounts of why the vehicle was seized. None of their reasons
were sufficient to justify the impoundment. Sergeant Filippi, the supervisor who authorized the
seizure, stated that the vehicle was taken into custody to verify its ownership given conflicting
claims about who the registered owner was. As the BWC footage shows, however, \$87(2)(b)
and the bystanders all consistently stated that \$87(2)(b) who was on-scene and
identified herself to the officers, was the owner. § 87(2)(g)

Police Officer Casale stated that the vehicle was taken for safekeeping to ensure that nobody stole it while \$87(2)(b) was in custody. Neither the officers nor the civilians, however, articulated why the vehicle might have been in danger if left in place. Any risk that the vehicle was in would have also been addressed by turning the vehicle over to \$87(2)(b)

Police Officer Smith stated that the vehicle was seized solely because string in it during the arrest, and that it is standard procedure to seize vehicles when their occupants are arrested. This is false, as officers must demonstrate that the vehicle was involved in criminal activity or that impounding the vehicle furthers a community caretaking function. In this instance, there was no suspicion that the vehicle itself was involved in criminal activity. There was no link between the burglary that (\$37(2)(6)) was arrested for and the vehicle. All three officers denied having any direct suspicion that (\$37(2)(6)) was arrested for and the vehicle contained contraband or other evidence of a crime.

While none of the officers recalled \$87(2)(b) so which being parked improperly, the BWC

footage shows that it was blocking access to a parking lot, in violation of posted signage. This opens the possibility that the vehicle's seizure was consistent with the community caretaking function, as it would remove a traffic impediment. This impediment, however, would just have easily been remedied by handing the vehicle over to \$87(2)(b) as \$87(2)(b) directly requested. Tardi asserts that officers are not required, before impounding a vehicle, to search for alternative courses of action, such as searching for another motorist to take custody of the vehicle or reaching out to the vehicle's owner. \$87(2)(g) . As discussed above, the BWC footage shows that §87(2)(b) ownership of the vehicle was never disputed during this incident. §87(2)(b) and and §87(2)(b) both told the officers directly to give the vehicle over to § 87(2)(b) possession. There was no need to do any further investigation of the vehicle, either at the scene of the arrest or at the stationhouse, to confirm the vehicle's ownership. Thus, the officers did not have to seek out an alternative to impoundment because the civilians provided it to them from the start of the interaction. **Allegations Not Pleaded** and \$87(2)(b) both stated that when \$87(2)(b) retrieved her vehicle from the stationhouse, there was damage on the vehicle's driver's side. § 87(2)(b) could not describe the damage in further detail. \$87(2)(b) stated that the bottom of the driver's door frame was dented. Neither of them knew how this damage came about. They did not provide photographs or any other documentation of the damage. None of the other officers or civilians alleged that the vehicle suffered damage. Police Officer Casale and § 87(2)(b) however, both stated that after \$87(2)(b) exited the vehicle, he stepped onto the door frame, with both his feet on the bottom of the frame. None of the other accounts mentioned any officers or civilians touching the bottom of the door frame. The BWC footage does not clearly show the bottom of the door frame during s arrest. It does not show the officers damaging the vehicle in any way when they conducted the inventory search at the stationhouse. § 87(2)(g) **Civilian and Officer CCRB Histories** has been a party to one previous CCRB complaint and six allegations (Board Review #19). § 87(2)(b) This is the first CCRB complaint to which \$87(2)(b) has been a party (Board Review

Sergeant Filippi has been a member of the service for twelve years and has been identified

as a subject in eight other CCRB complaints and twelve allegations, none of which were substantiated. §87(2)(g)

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of December 10, 2021, the NYC Office of the Comptroller has no record of a Notice of Claim being filed regarding this incident.

8 87(2)(6)			
• § 87(2)(b)			
\$ 67(2)(0)			
• § 87(2)(b)			
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quad:15_			
quau1 <u>3_</u>			
Investigator:	Owen Godshall	SI Owen Godshall	
	Signature	Print Title & Name	Date
quad Leader:	Sinon Wans	IM Simon Wang	07/22/22
-	Signature	Print Title & Name	Date
eviewer:			
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